

Serial No. 10/661,771
Amendment dated December 29, 2005

Atty Docket No. 280/059CIP1
Reply to Office action of September 29, 2005

REMARKS

Prior to entry of this amendment, claims 1-29 are pending in the subject application. By the instant amendment, claims 2, 3, 5, 6, 7, 15 and 25 have been amended to correct for minor errors therein. No new matter has been added. Claims 1 and 25 are independent.

Applicants request, in the next Office action, that the Examiner indicate the acceptability of the drawings filed on September 15, 2003.

In reviewing the file, it appears no Information Disclosure Statement has been filed. This was in error, and such an IDS will be filed tomorrow. Consideration of such an IDS before the next Office action is respectfully requested.

Claims 1-29 are presented to the Examiner for further prosecution on the merits.

A. Introduction

In the outstanding Office action dated September 29, 2005, the Examiner rejected claims 2-8, 15, 16 and 25-29 under the second paragraph of U.S.C. § 112 as being indefinite; rejected claims 25, 28 and 29 under 35 U.S.C. § 102(e) as being anticipated by US Patent Application No. 2002/0172237 to Murry et al. ("the Murry et al. reference"); rejected claims 26 and 27 under 35 U.S.C. § 103(a) as being unpatentable over the Murry et al. reference further in view of U.S. Patent No. 5,283,845 to Ip ("the Ip reference"); and indicated that claims 1, 9-14 and 17-24 were allowed.

B. Asserted Indefiniteness Rejection of Claims 2-8, 15, 16 and 25-29

In the outstanding Office action, the Examiner rejected claims 2-8, 15, 16 and 25-29 under the second paragraph of U.S.C. § 112 as being indefinite. Claims 2, 5, 6, 7 and 15 have been amended to insure proper antecedent basis for their respective base claims. Claim 25 has been amended to remove "input." However, it is respectfully submitted that there is antecedent basis in the preamble for "the beam."

Regarding the term "set of values" in claim 25, this is to refer to the unique values for each signal, as discussed, for example, in paragraph [0055] of the original specification. This was intended to mean that the flatter portions of the signals output by the detectors, e.g., shown in FIG. 4B, do not all overlap. In the flatter portions of the curves representing the output signals, a change in wavelength doesn't appear as a significant change in intensity, making wavelength determination, and thus monitoring, difficult. In steep portions of these curves, a small change in

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wavelength will result in a dramatic change in intensity, making wavelength determination sensitive. Thus, at least one of the three periodic signals needs to be sampled in a relatively steep portion. Claim 25 has been amended to clarify this aspect.

The remaining rejected claims depend on a rejected base claim, and the indefiniteness thereof is believed to be corrected by the above noted amendments to their respective base claims. Therefore, it is respectfully submitted that this rejection be withdrawn.

C. Asserted Anticipation Rejection of Claims 25, 28 and 29

In the outstanding Office action, the Examiner rejected claims 25, 28 and 29 under 35 U.S.C. § 102(e) as being anticipated by the Murry et al. reference. This rejection is respectively traversed for at least the reasons set forth below.

The Examiner appears to be characterizing each wavelength as the periodic signals. However, claim 25 recites, in part, that the signal are "periodic with respect to wavelength" and a set "represents a unique wavelength in an operational band." The passband filters/reflectors used in the Murry et al. reference do not output periodic signals. In the Murry et al. reference, the passbands are established so different discrete wavelengths may be detected. *See, for example, paragraph [0183] of the Murry et al. reference.* Thus, the Murry et al. reference assigns a wavelength to a particular "bucket" of a passband for the filter. Therefore, it is respectfully submitted that the Murry et al. reference fails to disclose or suggest the present invention as recited in claim 25.

It is further respectfully submitted that the PCT Application, of which the present application is a continuation, was filed before the US filing date of the Murry et al. reference.

Claims 28 and 29 depend from claim 25, and are similarly believed to be allowable. Therefore, it is respectfully requested that this rejection be withdrawn.

D. Asserted Obviousness Rejection of Claims 26 and 27

In the outstanding Office action, the Examiner rejected claims 25, 28 and 29 under 35 U.S.C. § 103(a) as being unpatentable over the Murry et al. reference further in view of the Ip reference. This rejection is respectfully traversed for at least the reasons set forth below.

The Ip reference fails to provide all of the teachings noted above as missing from the Murry et al. reference. Therefore, it is respectfully submitted that claims 26 and 27, which

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depend from claim 25, are similarly allowable for at least the reasons set forth above. Therefore, it is respectfully requested that this rejection be withdrawn.

E. Allowed Claims

The indication that claims 1, 9-14 and 17-24 were allowed is gratefully acknowledged. Claims 2-8 and 15-16, which depend, either directly or indirectly, from allowed claim 1, are similarly believed to be allowable. Further, claims 25-29 are believed to be allowable for at least the reasons set forth above.

F. Conclusion

Since the cited prior art references neither anticipate nor render obvious the subject invention as presently claimed, applicants respectfully submit that claims 1-29 are now in condition for allowance, and a notice to that effect is respectfully requested.

If the Examiner believes that additional discussions or information might advance the prosecution of the instant application, the Examiner is invited to contact the undersigned at the telephone number listed below to expedite resolution of any outstanding issues.

In view of the foregoing amendments and remarks, reconsideration of this application is earnestly solicited, and an early and favorable further action upon all the claims is hereby requested.

Respectfully submitted,

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Date


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